

FCC MAIL SECTION

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Before the
Federal Communications Commission
Washington, D.C. 20554

DISPATCHED BY

In the Matter of

Creation of a Low
Power Radio Service

) MM Docket No. 99-25
)
) RM-9208
) RM-9242
)

ORDER ON RECONSIDERATION

Adopted: October 1, 1999

Released: October 1, 1999

By the Commission:

1. In the *Notice of Proposed Rule Making* in MM Docket No. 99-25, FCC 99-6 (released February 3, 1999), 64 Fed Reg 7577 (February 16, 1999), the Commission proposed to establish rules authorizing the operation of new, low power FM (LPFM) radio stations. The *Notice* established comment and reply comment dates of April 12, 1999 and May 12, 1999, respectively. In response to petitions for extension of the comment and reply comment periods,¹ the comment and reply comment dates were extended to June 1, 1999 and July 1, 1999 to provide parties more time to prepare engineering and other studies. In response to requests for further extensions of the comment and reply comment periods,² we granted a 60-day extension of the comment period to August 2, 1999, and of the reply comment period to September 1, 1999, to afford petitioners time to complete their technical studies.

2. After the close of the comment period, the Commission received petitions to extend the reply

¹ Lucent Digital Radio, a developer of in-band on-channel digital radio technology, requested an extension, so that comments would have been due July 12, and reply comments would have been due August 11, 1999. The National Association of Broadcasters, the Consumer Electronics Manufacturers Association, and all of the state broadcaster organizations, including the District of Columbia and Puerto Rico and the Walt Disney Company requested 90-day extension of the comment date to July 12, 1999, and a 150-day extension of the reply comment date to October 11, 1999. These petitions were supported by Saga Communications, which stated that it needed additional time to conduct a technical analysis. The petitions were opposed by the Amherst Alliance and several individuals.

² The Corporation for Public Broadcasting and National Public Radio requested a 60-day extension of the comment period. The National Association of Broadcasters requested a 60-day extension at a minimum, but requested a further extension until field testing could be completed for the In Band On Channel (IBOC) digital radio system (which it believes will be completed by December 15, 1999). A number of individuals and groups, including the Amherst Alliance, Minority Media and Telecommunications Council, REC Networks, and the Committee on Democratic Communications, National Lawyers Guild opposed any extension.

comment period.³ On August 31, 1999 the Commission issued an *Order* in MM Docket 99-25, FCC 99-233 (released August 31, 1999) granting a sixteen (16) day extension of the reply comment period, until September 17, 1999. By thus extending the reply comment period, the Order granted in part the request of Greater Media and deferred further action on Greater Media's request.

3. On September 3, 1999 Greater Media filed an informal letter request for action on the outstanding portion of its request for an extension. On September 10, 1999, the United Church of Christ filed an Opposition to Greater Media's letter.

4. On September 17, 1999 the Commission issued an *Order* MM Docket 99-25, FCC 99-254 (released September 17, 1999) extending the reply comment period in this proceeding for fourteen (14) days following the release of a Notice of Proposed Rule Making regarding digital audio broadcasting, a date which the Commission anticipates will be November 5, 1999.

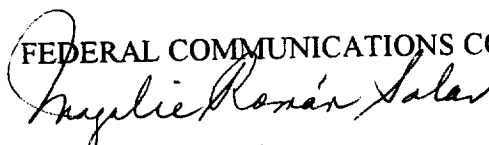
5. On September 22, 1999, the Amherst Alliance and several individuals ("Petitioners") filed a Motion for Reconsideration of the Commission's September 17 *Order* extending the reply comment deadline. Petitioners' Motion was supported by a Reply to Petition for Reconsideration filed by REC Networks and the Arizona Microradio Association on September 26, 1999. Petitioners assert that the Commission's decision to extend the reply comment deadline on the day reply comments were due did not provide them with adequate notice of the extension. Petitioners therefore seek to roll back the reply comment deadline to October 1, 1999, or, in the alternative, to limit any reply comments filed after October 1, 1999 to discussions of digital audio broadcasting.

6. Petitioners assert that they have been prejudiced by the extension of the reply comment period on the date reply comments were due. We do not believe that prejudice resulted from granting such extension on that date. The *Order* extending the reply comment period was formally released and was immediately posted on our website. Further, the timing and substance of our action did not deprive Petitioners of opportunity to participate in our proceedings. Rather, at most, it prompted Petitioners to file their reply comments, and subject them to the scrutiny of others, earlier than they might have had they known of the extension. In our view, this does not constitute harm or prejudice requiring remedial action by the Commission, particularly since Petitioners, like other parties, may revise their replies during the extension period.

³ The New York State Thruway Authority requested a 16-day extension of the reply comment period, and Greater Media, Inc. requested an extension of the reply comment period for sixty (60) days or for a period of forty-five (45) days after the release of a Notice of Proposed Rule Making regarding the implementation of digital audio broadcasting. The Greater Media petition was supported by joint comments of Big City Radio, Inc., Clear Channel Communications and Delmarva Broadcasting, and comments of the National Association of Broadcasters. The Office of Communication, Inc. of the United Church of Christ, *et al.*, the Amherst Alliance, and the National Lawyers Guild Committee on Democratic Communications opposed Greater Media's request for an extension of the reply comment period.

7. Accordingly, IT IS ORDERED that the Motion for Reconsideration of the Reply Comment Extension Deadline established by the Commission's *Order* extending the reply comment period in this proceeding is DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Magalie Roman Salas
Secretary